

BOARD OF APPEALS CASE NO. 5090

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BEFORE THE

APPLICANT: Joseph Sommerville

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ZONING HEARING EXAMINER

REQUEST: Variance to construct an attached garage within the required side yard setback;  
2323 Cox Road, Jarrettsville

\*

OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 10/11/00 & 10/18/00

HEARING DATE: November 13, 2000

Record: 10/13/00 & 10/20/00

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicant, Joseph Sommerville, is seeking a variance, pursuant to Section 267-35B, Table III of the Harford County Code to construct an attached garage within the required 15 foot side yard setback (8 feet proposed) in an RR/Rural Residential District.

The subject parcel is located at 2323 Cox Road, Madonna Manor, Jarrettsville, Maryland 21084 and is more particularly identified on Tax Map 23, Grid 2E, Parcel 144. The subject parcel consists of 0.5± acres, is zoned RR/Rural Residential and is entirely within the Fourth Election District.

Mr. Joseph Sommerville appeared and testified that he was the Applicant in this case and that he presently owns the subject property. The witness testified that he intends to construct a 26 foot by 27 foot garage on the west side of the existing home. Because of the topography of the property, the garage cannot be located anywhere else on the property. The location will encroach 7 feet into the side yard setback requirement of 15 feet (8 feet proposed). The lot slope severely from west to east and front to rear and the proposed location is the most level. Because of this slope, the house is not centered on the property but is built closer to the west side property line than the east side. Consequently, the western side yard setback is severely reduced. The witness stated that the Staff Report, dated November 1, 2000, was correct and offered no additions, deletions or corrections to that Report.

The Department of Planning and Zoning recommends approval of the subject request finding the variance minor in nature, occasioned by the topography of the property which makes the parcel unique and consistent with other structures in the neighborhood.

There were no persons who appeared in opposition to the request.

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### **CONCLUSION:**

The Applicant proposes to construct a 2 car garage which will reduce the side yard setback by 7 feet, 8 feet proposed. The Harford County Code pursuant to Section 267-35B, Table III, requires a 15 foot side yard setback in an RR zone.

Section 267-11 permits variances and provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”

The Hearing Examiner finds that the subject parcel is topographically unique in that it slopes severely in two directions. This slope caused the house to be located on the parcel closer to the west side property line than the east. The addition should have no adverse impact on adjoining properties and the purposes of the Code will not be impaired. There are numerous other houses in the neighborhood enjoying similar garage structures and the proposal is consistent with those other uses.

The Hearing Examiner therefore recommends approval of the Applicant’s request subject to the following conditions:

1. The Applicant obtain any and all necessary permits and inspections.
2. The garage not be used in furtherance of a business.
3. The garage not be used for storage of commercial vehicles or equipment.

Date      **DECEMBER 5, 2000**

**William F. Casey**  
**Zoning Hearing Examiner**